



Virginia Freedom of Information Advisory Council

Meetings Issues Subcommittee

June 24, 2021, at 1:00 p.m.

Electronic Meeting

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The Meetings Issues Subcommittee (the Subcommittee) of the Virginia Freedom of Information Advisory Council (the Council) met electronically with Cullen Seltzer, chair, presiding.¹ The meeting began with introductions and opening remarks followed by presentations and discussion. Materials presented at the meeting, as well as all written public comments, are accessible through the [Council's 2021 Subcommittees webpage](#).

Presentation, Public Comment, and Discussion: Definition of "Official Public Government Website"

Council Staff

Council staff gave an overview of a bill draft (LD 22100073) that provides a definition of "official public government website" for purposes of the Virginia Freedom of Information Act (FOIA). As drafted, the bill defines "official public government website" to mean "any Internet site controlled by a public body and used, among other purposes, to post required notices and information on behalf of the public body.

The Subcommittee heard brief public comment on the bill draft and received questions regarding whether this language would negatively affect or impact local or regional public bodies that utilize a third party to manage their website. Council staff noted that even if a public body uses a third party to manage and update their website, the public body still retains control over what is posted; thus, if the public body uses that website for the purpose of posting required notices and information, it will be considered their official public government website under the proposed definition.

The Subcommittee discussed the particular language of the definition and proposed an amendment to the draft language to define "official public government website" to mean "any Internet site controlled by a public body and used, among any other purposes, to post required notices and other content pursuant to this chapter on behalf of the public body." The motion to amend the language of the definition was properly seconded and passed unanimously. A motion was then made to propose the bill draft as amended to the Council at its next meeting. That motion passed unanimously.

¹ **Members Present:** Cullen Seltzer (chair), Delegate William C. Wampler III, Lee Bujakowski, William "Billy" Coleburn, Chidi James

Members Absent: Matthew Conrad

Presentation, Public Comment, and Discussion: Statutory Schemes for Electronic Meetings pursuant to FOIA

Council Staff

Council staff presented the different statutory schemes that allow public bodies to meet by electronic communication means. Staff walked through the legislative history of electronic meetings provisions and explained some of the common procedural questions and misunderstandings experienced by public bodies and members of the public.

The Subcommittee received comments from members of the public:

- Megan Rhyne, speaking on behalf of the Virginia Coalition for Open Government, expressed that current law allows a public body to provide electronic access to public meetings for members of the public if they so choose, and any calls to further amend the law beyond just clarification need to be carefully considered.
- Vice-Mayor of Alexandria, Elizabeth Bennett-Parker, noted that it's not always logistically or financially feasible for a public body to livestream all meetings from a central public location, and that there is a great interest among members of the public, local elected officials, and some legislators in policy change with regard to meetings held by electronic communication means. She expressed that policies in FOIA should evolve with advancements in technology.
- Melanie Meren, a member of the Fairfax County School Board, expressed that the Subcommittee and the FOIA Council have an opportunity to create a new policy that allows public bodies to meet by electronic communication means in a transparent manner.
- Phyllis Errico, speaking on behalf of the Virginia Association of Counties, expressed concern about a balance between transparency and having as much participation as possible from both citizens and members of a public body.

Mr. Seltzer asked for the Subcommittee's general thoughts on the topic. Billy Coleburn noted that he received numerous emails on the topic from members of the public. He explained that there should not be a concern about whether the public can access meetings remotely, as that is already allowed under FOIA. He expressed his belief that supporters of electronic meeting reform simply want to make things easier for members of the public body. Mr. Coleburn expressed that when the members of the public body are not required to be physically present, it allows and invites mischief and inattentiveness.

Mr. Seltzer expressed that discussion on the topic is difficult because it involves competing values. He mentioned supporting the idea of asking for direction from the FOIA Council on the topic before proceeding with any ideas for substantive change to electronic meetings provisions. Delegate William C. Wampler III noted that any potential changes to electronic meetings provisions need to ensure the most open and transparent form of government for all public bodies, keeping in mind that there are different types of bodies that require different things. He expressed that members of the public should be able to speak on matters of public importance through electronic communication means, but that a balance between electronic and in-person meetings is also important. Mr. Seltzer noted that he would give a summary of today's discussion to the FOIA Council at its next meeting and ask the Council if it supports the Subcommittee studying the topic of electronic meeting reform.



Next Meeting

Council staff will poll members of the Subcommittee regarding a future meeting date. Once a date is set, it will be posted on the [Council's 2021 Subcommittees webpage](#).

For more information, see the [Council's website](#) or contact the Division of Legislative Services staff:

Alan Gernhardt, Executive Director, Virginia Freedom of Information Advisory Council, DLS
agernhardt@dls.virginia.gov
804-698-1877

Ashley Binns, Attorney, Virginia Freedom of Information Advisory Council, DLS
abinns@dls.virginia.gov
804-698-1812

